

**TESTIMONY OF COLETTE Y. MACHADO, CHAIRPERSON  
OF THE STATE OF HAWAII, KAHO'OLAWA ISLAND RESERVE COMMISSION  
BEFORE THE SENATE COMMITTEE ON INDIAN AFFAIRS  
OVERSIGHT HEARING ON SACRED LANDS PROTECTION**

**Senate Indian Affairs Committee Room**

June 4, 2002

Aloha Chairperson Inouye, Vice Chairperson Campbell-Nighthorse, and members of the Committee. My name is Colette Machado and I thank you for the opportunity to testify this morning before the Committee on Indian Affairs. I am an elected Trustee to the State Office of Hawaiian Affairs, and in that capacity serve as a member and chairperson of the Kaho'olawe Island Reserve Commission. This morning I will address the issue of sacred lands as it relates to Native Hawaiian traditional and cultural practices and the island of Kaho'olawe, Hawai'i. Like many indigenous sacred places, Kaho'olawe is impacted by the policies and actions of the Department of Defense. We support the Sacred Lands Protection Coalition and encourage the continued oversight hearings by this committee.

Kaho'olawe is the smallest of the eight major Hawaiian islands, lying just 7 miles off the coast of Maui. The island has a rich mythology and a long history of cultural use and religious practices. This is reflected in the profound discovery of over 500 archaeological sites and 2,000 features. Kaho'olawe, whose ancient name is Kanaloa, is the only island named for a major god. It was a place well known among our people for continuous religious practices from 900 AD through 1890. The island was taken by the U.S. military in 1941 for use as a bombing range during World War II. In 1953 President Eisenhower signed Executive Order No.10436 transferring the island to the U.S. Navy.

For nearly 50 years Kaho'olawe was used as a target range for ship-to-shore shelling, aerial bombardment, torpedo launching and artillery maneuvers by the United States

and its allies. Nearly every type of conventional (non-nuclear) munitions in the U.S. arsenal was fired at Kanaloa. In 1965 the Navy simulated an atomic detonation that was seen and felt by its closest neighbor located 7 miles away on Maui. This detonation blasted through the island's substrate such that the resulting crater is filled with seawater. While the island's ancient significance was known or suspected by many of our native people, military training has resulted in the destruction of sites and degradation of the cultural landscape.

Frustration at the continuing destructive practices led to the first of several occupations by young native Hawaiians in 1976, protesting the desecration of sacred land and seeking the island's return to Native Hawaiian and local control. The protestors also filed a civil suit against the Navy (*Aluli vs, Brown*) for violation of several environmental and historic preservation laws, and sued for access to the island under First Amendment Rights of Freedom of Religion and Access. The Protect Kaho`olawe `Ohana (PKO) led the Native Hawaiian and general public protests to end the desecration of Kaho`olawe. The federal court sanctioned a Consent Decree in 1980 that required the Navy to meet the requirements of existing environmental and historic preservation law, and to provide monthly access to the island by the native plaintiffs. The PKO's role as Ke Kahu O Ka `Aina or steward of the island was acknowledged in a court ordered Consent Decree.

In 1990 the President of the United States issued a directive for the cessation of bombing. In 1992, Congress received the final report of the congressionally appointed Kaho`olawe Island Conveyance Commission. The report confirmed the rich cultural history and sacred nature of the island, and recommended its return to the State of Hawai`i.

In 1993, as part of the Defense appropriation act, in recognition of the State-Federal relationship and the historical cultural significance of Kaho`olawe, Congress directed the Navy to return the island to the State of Hawai`i, and to undertake a ten year program of environmental restoration and remediation in coordination with the State.

Also in 1993, the State of Hawaii legislature enacted HRS 6K which established the Kaho`olawe Island Reserve, and the Kaho`olawe Island Reserve Commission (KIRC) to manage it. The Reserve encompasses the entire island and 90 square miles of ocean surrounding it.

In recognition of the cultural importance of Kaho`olawe, State law prohibits any commercial use of the Reserve, but provides for the protection and perpetuation of Native Hawaiian practices relating to cultural, religious and subsistence purposes. Other allowed uses under State law include: ecological restoration, historic site preservation, education, which allows limited fishing. The law contains a unique provision which allows for the transfer of the entire island upon recognition of a Native Hawaiian sovereign entity by Congress and the State of Hawai`i.

In further recognition of the island's importance to Native Hawaiians, the KIRC management commission is composed of a majority of Native Hawaiians along with a variety of representatives from local government agencies. The KIRC has been given lead-agency authority by the State, to manage the island and to represent the State's interest in all matters relating the Navy's remediation project on the island.

The KIRC and the Navy negotiated and entered into a Memorandum of Understanding (MOU) regarding the Navy's environmental restoration and remediation project. The KIRC and the Navy further negotiated a regulatory framework and other agreements to guide the project.

In 1995 the KIRC completed the Kaho`olawe Use Plan (one copy will be provided) which incorporates the vision of a restored island functioning as a cultural-educational reserve where native practices would be practiced and spread across all the islands of Hawai`i. The Plan was given to the Navy to form the basis of their UXO cleanup of the island.

The environmental restoration and UXO remediation ("cleanup") of a sacred Hawaiian island demanded special agreements and arrangements. In the 1993 legislation authorizing the cleanup, Congress required the Navy to develop and implement a cultural protocol to respect and protect the sites on the island. The Navy accepted the

KIRC's request for a protocol which allowed KIRC to declare any cultural site "off-limits" to the cleanup. Also under the agreed upon protocol, the Navy contractor hired numerous archaeologists to provide adequate assessment and recordation of all sites to be impacted by cleanup operations.

In order to promote and encourage the cultural protocol, KIRC worked with respected Native Hawaiian practitioners (the Edith Kanaka'ole Foundation) to develop a series of Hawaiian language chants that could be used appropriately for a variety of Cleanup-related activities. The creation of these chants for a specific purpose, their traditional structure and many layers of meaning expressed in their beautiful poetry has garnered wide spread acclaim, and is considered by the KIRC to be a significant and successful expression of cultural sensitivity.

KIRC was successful in requiring mandatory cultural orientation training for all workers before accessing the island for the first time. These orientation sessions have been eagerly received and appreciated by the cleanup workers. Due to popular requests by workers, and an apparent need for further training, KIRC proposed that refresher cultural training be required, as is safety training and other refreshers. The Navy, however, did not concur, thus this program was not implemented.

During the initial months of the cleanup KIRC provided elders and cultural practitioners to lead the work crews in daily reminders of prayers and traditional chants at the beginning of each workday. Most workers and managers embraced this program as a very positive team building activity, as well as an effective tool to get the work crews focused on their work and safety for the day.

Other specific actions of note include the formation of an all female clearance team to "clean" an ancient temple associated with females and a female deity. Also of note, the project's work schedule was structured to accommodate the observance of the annual Makahiki ceremonies by Native Hawaiian cultural practitioners. The KIRC also prohibited fishing by cleanup workers in order to protect the ocean resources of the

Reserve. Finally, a majority of local residents and significant numbers of Native Hawaiians are employed by the project.

However, there has been significant tension between the often diametrically opposed cultural objectives and need for interagency coordination, versus the Navy's cleanup objectives and mode of operation. The objective of completing the project as quickly and efficiently as possible does pose challenges to achieving requirements for cultural sensitivity and protection.

The historic military use of our sacred island implies a perpetual DoD legacy and relationship between our people and the department. Even if the MOU standards of cleanup had been achieved, residual UXO risk would be an ongoing issue. Since the Navy has informed us that the cleanup standard will not be met, a significantly larger UXO risk, as well as other, as-yet-undetermined, environmental contamination will result in more limited use.

In conclusion, I would like to summarize the successes and challenges faced by the KIRC in protecting sacred sites in the context of a Department of Defense undertaking:

**SUCCESSES INCLUDE:**

- ❖ **The return to local control and the initiation of environmental and cultural restoration.**
- ❖ **Recognition of a cultural protocol both within formal agreements between the State and the Navy, and in actual contract provisions with government vendors.**
- ❖ **Required cultural orientation**
- ❖ **Enthusiastic positive response by workers.**
- ❖ **Sensitivity exhibited by the Navy's contractor in forming specific teams to address sensitive sites and scheduling work to allow for the uninterrupted practice of cultural ceremonies.**

**PROBLEMS AND CHALLENGES HAVE INCLUDED:**

- ❖ **The forced trade-off of “lose or no use” (The Navy has proposed that if a site is to be closed to cleanup due to sensitive archaeological or cultural concerns, then the site must be isolated with a 1,000 foot perimeter fence with no access allowed.)**
- ❖ **Discouraging incidents of site vandalism and graffiti that are not yet resolved, and which may be a symptom of the management challenges that come with increased public access .**
- ❖ **The expected shortfall of the cleanup from standards agreed to by the State-KIRC and the Navy in 1994 will limit the uses and cultural activities that have been planned for the island and make them more difficult to achieve.**

Thank you for the opportunity to testify before you today.

## KAHO`OLAWE TIMELINE

- 900 A.D.** The earliest known use of Kaho`olawe for cultural and religious purposes via burials, temple or heiau with carved images of deities located along the southern coast of Kaho`olawe.
- 900-1890** Kaho`olawe used as a traditional Hawaiian purposes including fishing, religious structures, stone adze manufacturing, and dry land agriculture among others.
- 1890-1941** Use of Kaho`olawe for sheep and cattle ranching.
- 1893** Annexation of Hawai`i by the United States
- 1941** World War II and acquisition of Kaho`olawe by the U.S. military for training purposes.
- 1953** President Eisenhower signed Executive Order No. 10436 transferring Kaho`olawe to the U.S. Navy as a military reservation.
- 1965** Three simulated atomic detonations (500 tons TNT) conducted on Kaho`olawe.
- 1976** First of several occupations by Native Hawaiians protesting the desecration of Kaho`olawe as sacred place. Filing of civil suit (*Aluli v. Brown*) against the Navy for violation of environmental, historic preservation, and religious freedom laws
- 1980** The entire island is listed on the National Register of Historic Places.
- 1981** Consent Decree for civil suit approved by federal court and signed by parties.
- 1990** Bombing and military training exercises are ceased on Kaho`olawe
- 1991** Congressional designation of the Kaho`olawe Island Conveyance Commission (KICC) to provide recommendations for the return of the island.
- 1992** KICC final report to Congress recognizing the cultural and religious significance of Kaho`olawe and recommending that the island be conveyed to the State of Hawai`i and that the U.S. Navy conduct a clearance of unexploded ordnance and environmental restoration.
- 1994** Kaho`olawe Island and it surrounding waters conveyed to the State of Hawai`i. The State legislature establishes the Kaho`olawe Island Reserve and the Kaho`olawe Island Reserve Commission (KIRC) as the management entity until eventual transfer to Native Hawaiian sovereign entity.
- 1995** The Kaho`olawe Island Reserve Commission completes Use Plan for the island establishing it as a cultural reserve. The U.S. Navy begins its cleanup of the Reserve.
- 2003** The U.S. Navy ceases cleanup activities and returns control of the Reserve back to the State of Hawai`i.

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